

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

Case No. _____
Amended

**Notice of Preliminary Hearing on Motion
[Check One]**

**For Use of Cash Collateral
To Obtain Credit**

Debtor(s)

YOU ARE NOTIFIED THAT:

1. The undersigned moving party, _____,
filed a motion [*check one*]
for use of cash collateral.
to obtain credit.

The motion is attached and it includes (1) the statement required by [Local Bankruptcy Form \(LBF\) 541.5, Procedures re: Motions for Use of Cash Collateral or to Obtain Credit](#) and (2) the following allegations:

- a. The immediate and irreparable harm that will come to the estate pending a final hearing is _____

_____.
- b. The amount of [*check one*] cash collateral credit necessary to avoid the harm detailed above prior to the final hearing is _____.
2. The name and service address of the moving party's attorney (or moving party, if no attorney) are: _____
_____.
3. A preliminary hearing on the motion, at which testimony will be received if offered and admissible, will be held as follows:

Date: _____ **Time:** _____

Location: Courtroom # _____, _____

Telephone Hearing [See [Local Bankruptcy Form \(LBF\) 888](#), Telephone Hearing Requirements.]

Call In Number: (888) 684-8852

Access Code: 4950985 for Judge Trish M. Brown (tmb)
5870400 for Judge David W. Hercher (dwh)
1238244 for Judge Peter C. McKittrick (pcm)
3388495 for Judge Thomas M. Renn (tmr)

Video Hearing. To connect, see www.orb.uscourts.gov/video-hearings.

4. If you wish to object to the motion, you must do one or both of the following:
 - a. attend the preliminary hearing.
 - b. file a written response, which states the facts upon which you will rely, with the clerk at 1050 SW 6th Ave. #700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401.

If the response is filed within three business days before the hearing, notify the judge's chambers by telephone immediately after filing the document, as required by Local Bankruptcy Rule 9004-1(b).

5. I certify that on _____ this notice and the motion were served pursuant to Federal Rule of Bankruptcy Procedure (FRBP) 7004 on the debtor(s), any debtor's attorney, any trustee, any trustee's attorney, members of any committee appointed under 11 U.S.C. § 1102 or elected pursuant to 11 U.S.C. § 705 or its authorized agent (or, if no committee in a chapter 11 case, on all creditors listed on the list filed pursuant to FRBP 1007(d)), any creditors' committee attorney, the U.S. Trustee, and all entities with any interest in the cash collateral subject to this motion, whose names and addresses used for service are as follows:

Signature of Moving Party or Attorney

OSB #

(If debtor is movant) Debtor's Address & Last 4 Digits of Taxpayer ID#(s)

Theodore J Piteo, OSB 090311
Michael D. O'Brien, OSB 951056
Michael D. O'Brien & Associates, P.C.
12909 SW 68th Pkwy, Suite 160
Portland, OR 97223
503-786-3800

Of Attorneys for Viento Wines, Inc, Debtor(s)-in-possession*.

IN THE BANKRUPTCY COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON

In re:)	Case No. 21-30690-tmb11
)	EXPEDITED
Viento Wines, Inc)	MOTION FOR AUTHORITY TO USE
)	CASH COLLATERAL AND AUTHORITY
)	TO GRANT REPLACEMENT LIEN
Debtor-in-possession.)	

Viento Wines, Inc, debtor-in-possession, (“Debtor”) moves the Court for preliminary authority to use cash collateral and for authority to grant a replacement lien and represents as follows:

1. None of the prohibited provisions listed in LBF 541.5 are included in this Motion or the proposed Order.
2. Pursuant to LBF 7007-1(c), Counsel for the Debtor contacted Counsel for creditor First Interstate Bank (“FIB”), David Criswell, and he does not object to the scheduling of an Expedited Hearing. The expedited nature of the hearing in this case

- is needed for the continuation of business critical expenses and to ensure court approval is received prior to default notices being received from critical service providers.
3. On March 29, 2021, Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code for the District of Oregon. Debtor continues to maintain possession of its property and operate its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the United States Bankruptcy Code (“the Code.”)
 4. Prior to the commencement of this case, Debtor entered into two secured Note agreements with Centerpointe Community Bank (“CCB”) to assist with business financing (the “Notes”). The Notes each contained a commercial security agreement, securing assets such as wine inventory, accounts, reserves, deposits, refunds, deferred payments, and payments of any kind related to the property and other business assets (the “Prepetition Collateral”) of Debtor. The Notes also had associated deeds of trust secured to real property owned by Debtor’s principals, Richard & Robin Cushman. CCB subsequently merged with FIB the new holder of the Notes.
 5. The security interest of FIB is senior to those of all other creditors known to Debtor and was perfected by the filing of a UCC statement with the Oregon Secretary of State. The UCC statement was recorded on August 14, 2013 as lien number 89812237. See Attached UCC filing at Exhibit A.
 6. As of the petition date Debtor was indebted to FIB and in arrears on the Notes listed above. Debtor believes FIB is currently oversecured.

7. In order to maintain its business operations and protect its ability to reorganize in accordance with chapter 11 of the Code, it is necessary that Debtor obtain the authority provided in 11 USC §363(c)(2)(B) to use cash collateral.
8. Debtor requests that this court authorize its preliminary use of cash collateral for the payment of its operating expenses in the normal course of business, as set forth in the monthly budget attached hereto as Exhibit B. The preliminary use of cash collateral requested in Exhibit B would cover projected monthly operating expenses. Debtor requests this court allow use of cash collateral for a 14-day period pending a final hearing on motion to use cash collateral during which time Debtors hope to negotiate a Stipulated Order re: Use of Cash Collateral with FIB. Debtor currently has no alternative borrowing source from which it could secure additional sufficient funding to operate its business.
9. In order to adequately protect the interests of FIB in the Prepetition Collateral and for Debtor's use of cash collateral as requested in this motion, Debtor proposes to provide replacement liens pursuant to 11 USC §361(2) to property of the Estate of the kind which presently secure the indebtedness owed to FIB (the "Postpetition Collateral."). Debtor believes that because of the equity cushion in the associated secured property, no monthly adequate protection payments are required.
10. In the event that the Court were to refuse authorization of Debtor's use of cash collateral, Debtor believes it may be unable to maintain its current business operation and propose a plan of reorganization. Without the use of cash collateral, Debtor will be forced to liquidate its collateral for below market value resulting in significant, irreparable harm to Debtor's estate and its creditors.

WHEREFORE, Debtor requests that this Court enter an Order pursuant to 11 USC §363(c)(2)(B) authorizing Debtor to use cash collateral for its general ongoing business operations as described in this motion in an the amount not to exceed \$3,797.50, representing one half of the monthly expense amount, and to grant unto FIB replacement liens in the Postpetition Collateral effective as of March 29, 2021, and for such other and further relief as the court may deem just and proper.

DATED this 30th day of March, 2021.

Respectfully So Moved by:

/s/ Theodore J. Piteo

Michael D. O'Brien, OSB 95105
Theodore J. Piteo, OSB 090311
of Attorneys for Debtor-in-Possession*
*Pending Approval of Employment

VIENTO WINES INC

OR Sec of State
08/14/2013

89812237_5842224

Lien#: 89812237

UCC

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS

A. NAME & PHONE OF CONTACT AT FILER (optional) Loan Operations 5413081318	
B. E-MAIL CONTACT AT FILER (optional) jennifer.ringlbauer@centerpointebank.com	
C. SEND ACKNOWLEDGMENT TO: (Name and Address) CenterPointe Community Bank 2500 Cascade Hood River OR 97031	

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a. ORGANIZATION'S NAME Viento Wines Inc			
OR			
1b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
1c. MAILING ADDRESS			
506 May St	Hood River	OR	97031
		COUNTRY	USA

2. DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the Individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here ☐ and provide the Individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a. ORGANIZATION'S NAME			
OR			
2b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
2c. MAILING ADDRESS			
	CITY	STATE	POSTAL CODE
		COUNTRY	

3. SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a. ORGANIZATION'S NAME CenterPointe Community Bank			
OR			
3b. INDIVIDUAL'S SURNAME	FIRST PERSONAL NAME	ADDITIONAL NAME(S)/INITIAL(S)	SUFFIX
3c. MAILING ADDRESS			
PO Box 270	Hood River	OR	97031
		COUNTRY	USA

4. COLLATERAL: This financing statement covers the following collateral:

— All Inventory; whether any of the foregoing is owned now or acquired later; all accessions, additions, replacements, and substitutions relating to any of the foregoing; all records of any kind relating to any of the foregoing; all proceeds relating to any of the foregoing (including insurance, general intangibles and other accounts proceeds)

5. Check <u>only</u> if applicable and check <u>only one box</u> : Collateral is <input type="checkbox"/> held in a Trust (see UCC1Ad, item 17 and Instructions) <input type="checkbox"/> being administered by a Decedent's Personal Representative			
6a. Check <u>only</u> if applicable and check <u>only one box</u> : <input type="checkbox"/> Public-Finance Transaction <input type="checkbox"/> Manufactured-Home Transaction <input type="checkbox"/> A Debtor is a Transmitting Utility			
6b. Check <u>only</u> if applicable and check <u>only one box</u> : <input type="checkbox"/> Agricultural Lien <input type="checkbox"/> Non-UCC Filing			
7. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> Lessee/Lessor <input type="checkbox"/> Consignee/Consignor <input type="checkbox"/> Seller/Buyer <input type="checkbox"/> Bailee/Bailor <input type="checkbox"/> Licensee/Licensor			
8. OPTIONAL FILER REFERENCE DATA: Ln 1023700 & 1043000			

FILING OFFICE COPY — UCC FINANCING STATEMENT (Form UCC1) (Rev. 04/20/11)

Compliance Systems, Inc. 2001-2013
ITEM 307BAL1 (05/2013) Page 1 of 2

Viento Wines, Inc.

Exhibit B

	Monthly	
Average Monthly Income	\$18,500	
Estimated Monthly Expenses:	(30 days)	(14 Days)
Insurance	\$450.00	\$225.00
POS Sales System	\$180.00	\$90.00
Bank and Merchant Acct Fees	\$200.00	\$100.00
Wineclub System	\$175.00	\$87.50
Supplies for Wine making	\$400.00	\$200.00
Payroll - Officer	\$4,925.00	\$2,462.50
Tasting Room Supplies	\$300.00	\$150.00
Telephone/Internet	\$460.00	\$230.00
Utilities	\$505.00	\$252.50
Total	\$7,595	\$3,797.50